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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,329	10/31/2000	Dave Parker	005220.P002	3235
7590 10/17/2007 Blakely Sokoloff Taylor & Zafman LLP Daniel E Ovanezian 12400 Wilshire Boulevard 7th Floor Los Angeles, CA 90025			EXAMINER ALAM, UZMA	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 10/17/2007	DELIVERY MODE PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/703,329
Filing Date: October 31, 2000
Appellant(s): PARKER ET AL.

Dave Parker
For Appellant

**Supplemental
EXAMINER'S ANSWER**

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This is in response to the appeal brief filed June 18, 2007 appealing from the Office action mailed December 29, 2006

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1-7, 9-14, 16-18, 20-24, 26-28, 30-33, 42, 43, 45-46 and 48.

Claims 38-41 withdrawn from consideration as not directed to the elected claims.

Claims 8, 15, 19, 25, 29, 34-37, 44 and 47 have been canceled.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Carleton et al. US Patent Publication No. 2001/0044840

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-7, 9-14, 16-18, 20-24, 26-28, 30-33, 42, 43, 45-46 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Carleton et al. US Patent Publication No. 2001/0044840.

Carleton teaches the invention as claimed including a method and apparatus for connecting to a host system and generating notifications (see abstract).

As per claim 1, Carleton teaches a method, comprising:

accessing a port of a host system [client devices being monitored 26a-26c, 32a-32c] and logging into said host system by a satellite system [client server 22] [log into a device on the client network 12 which contains devices 26a-26c through a client server 22 from a remote

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monitoring and administration system 20 and access a specific device of the client network - pp 0049, pp0050, line 1-3, pp0075 - The client server 22 is connected to various client devices 26a-26c and 32a-32c. The client server transmits this information to the monitoring and administration system 20. The alarms generated for a device are about the device itself and all the port associated with the device; pp092] to monitor an internal parameter [status and statistics about device operation and specific port operation, such as level of port activity; line 2 or paragraph 0050, pp0075, Figure 12] for a predetermined event related to the host system (a system is monitored by logging on to ports of certain system elements; paragraph 0054, 0062-0070, 0075);

transferring data about the predetermined event from the satellite system to a monitoring operations center [Monitoring and administration system 20] (remote network monitoring system 20; pp 0050)

generating, by a monitoring operations center, a notification upon the occurrence of the predetermined event to a first person in a hierarchy (the business rules define normal functions and notification rules, if a function is not being performed as expected, a notification is sent; paragraph 0053); and

escalating, by the monitoring operations center, the notification to a second person in the hierarchy when the first person fails to acknowledge the notification in a time period (notifications are escalated, as defined by the business rules; paragraph 0009, 0053, 0054, 0079).

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As per claim 2, Carleton teaches the method of claim 1, further comprising determining whether the notification is successful (each notification as an acknowledgement flag; paragraph 0053, 0079).

As per claim 3, Carleton teaches the method of claim 1, wherein the predetermined event is receipt of a state change of the internal parameter (the monitoring system checks for state changes of system elements; paragraph 0054).

As per claim 4, Carleton teaches the method of claim 1, wherein the predetermined event is exceeding a threshold value set for the internal parameter (paragraph 0053).

As per claim 5, Carleton teaches the method of claim 1, further comprising generating the notification a number of times for an amount of time (paragraph 0053).

As per claim 6, Carleton teaches the method of claim 5, wherein the number of times, the amount of time, and the time period are configurable (the business rules, which set notification rules can be configured by a user; paragraph 0051 ,0062-0070, 0079).

As per claim 7, Carleton teaches a method comprising:
monitoring a host system for a parameter corresponding to a predetermined event using a satellite system located locally to the host system (paragraph 0049, 0054, 0062-0070, 0080);

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queuing data about the predetermined event collected by the satellite system, wherein queuing the data comprises queuing different types of the data in different ones of multiple queues (pp 0084, 0086, 0087);

prioritizing a transferring of the queued data from the multiple queues (Paragraph 0075 teaches that the monitoring device receives information about Current Alarms in devices, different alarms are coded differently to generate a variety of reports, each report relating to a specific alarm, one device is monitored for different business rules; pp0087 – a variety of reports are generated)

transferring the queued data from the host system to a monitoring operations center (0076);

generating, by the monitoring operations center located remotely from the host system, a notification upon the occurrence of the predetermined event to a first person in a hierarchy (paragraph 0050, 0053); and

escalating, by the monitoring operations center, the notification to a second person in the hierarchy when the first person fails to acknowledge the notification in a time period (paragraph 0009, 0053, 0054, 0079).

As per claim 9, Carleton teaches the method of claim 1, further comprising providing a possible cause of the predetermined event occurrence (paragraph 0081)

As per claim 10, Carleton teaches the method of claim 1, where escalation is based on a set of rules (paragraph 0054, 0062-0070, 0079).

As per claim 11, Carleton teaches the method of claim 10, wherein the set of rules is based on a time delay between the notification and the acknowledgement (paragraph 0054, 0079).

As per claim 12, Carleton teaches the method of claim 10, wherein the set of rules is based on the state change (paragraph 0053, 0079).

As per claim 13, Carleton teaches the method of claim 10, wherein the set of rules is based on schedules of the first and second persons (paragraph 0053, 0062-0070).

As per claim 14, Carleton teaches the method of claim 1, wherein the notification is generated and escalated automatically (paragraph 0053).

As per claim 16, Carleton teaches the method of claim 1, is further comprising monitoring a service of the host system (paragraph 0054, 0084).

As per claim 17, Carleton teaches the method of claim 1, wherein the parameter is a utilization of a component of the host system (paragraph 0084).

As per claim 18, Carleton teaches the method of claim 17, further comprising:

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monitoring additional parameters of the host system, wherein the additional parameters include a service of the host system (paragraph 0084); and eliminating a redundant notification based on dependent parameters of the host system; paragraph 0080).

As per claim 20, Carleton teaches a machine readable medium having stored thereon instructions, which when executed by a processor, cause the processor to perform the following:

Receiving, by a monitoring operations center data about an occurrence of a predetermined event related to a host system, the occurrence of the predetermined event determined by access of a port of the host system by a satellite system (paragraph 0054, 0062-0070, 0080);

Generating, by the monitoring operations center, a notification upon the occurrence of the predetermined event to a first person in a hierarchy (paragraph 0053) and

Escalating, by the monitoring operations center, the notification to a second person in the hierarchy when the first person fails to acknowledge the notification in a time period (paragraph 0009, 0053, 0054, 0079); and

Providing at least one of a suggestion of a probable cause of the predetermined event and a solution to the occurrence of the predetermined event (pp 0084, line 12-16, pp0085-0087).

As per claim 21, Carleton teaches the machine readable medium of claim 20, wherein the predetermined event is receipt of a state change of the parameter (paragraph 0053, 0079).

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As per claim 22, Carleton teaches the machine readable medium of claim 20, wherein the processor further performs generating the notification a number of times for an amount of time (paragraph 0053).

As per claim 23, Carleton teaches the machine readable medium of claim 20, wherein the number of times, the amount of time, and the time period are configurable (paragraph 0051, 0062-0070, 0079).

As per claim 24, Carleton teaches the machine readable medium of claim 20, wherein the processor further performs providing a suggestion as to a cause of the predetermined event occurrence (paragraph 0081).

As per claim 26, Carleton teaches an apparatus, comprising:

means for logging into and monitoring a host system for a parameter corresponding to a predetermined event; (paragraph 0054, 0062-0070); means for generating a notification upon the occurrence of the predetermined event to a first person in a hierarchy (paragraph 0053); and

means for escalating the notification to a second person in the hierarchy when the first person fails to acknowledge the notification in a time period (paragraph 0009, 0053, 0054, 0079).

As per claim 27, Carleton teaches the apparatus of claim 26, further comprises means for determining whether the notification is successful (paragraph 0053, 0079).

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As per claim 28, Carleton teaches the apparatus of claims 26, further comprising:

means for generating the notification a number of times for an amount of time (paragraph 0053).

As per claim 30, Carleton teaches an apparatus, comprising:

A configuration portal to interface with satellite system over a communication link and configure a service interleave factor of a host system, wherein the service interleave factor determines how service checks are interleaved (certain business rules are checked for alarms at certain times; paragraph 0051, 0054, 0062-0073);

a digital processing system coupled to the portal, the digital processing system to receive data indicative of an occurrence of the event and generate a first notification (paragraph 0053);

and a notification gateway coupled to the digital processing system to transmit the first notification to a first communication device, the digital processing system to generate a second notification to a second communication device if an acknowledgment is not received within a predetermined time (paragraph 0009, 0053, 0054, 0079).

As per claim 31, Carleton teaches the apparatus of claim 30, wherein the notification gateway transmits the second notification to the second communication device (paragraph 0049, 0050).

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As per claim 32, Carleton teaches the apparatus of claim 30, wherein the digital processing system comprises a server (paragraph 0049, 0050).

As per claim 33, Carleton teaches the apparatus of claim 30, further comprising a proxy server coupled to the digital processing system (paragraph 0049, 0050).

As per claims 42 and 45, Carleton teaches the method of claims 1 and 20, wherein generating further comprises transmitting the occurrence of the predetermined event from the satellite system to the monitoring operation center (paragraph 0009).

As per claims 43, Carleton teaches the method of claim 7, wherein the parameter of the host system is monitored by a satellite system, and wherein generating the notification further comprises transmitting the occurrence of the predetermined event from the satellite system to the monitoring operations center (pp 0050).

As per claim 46, Carleton teaches the method of claim 1, wherein accessing the port of the host system to monitor the internal parameter comprises logging into the host system (pp 0054, 0058, 0092).

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As per claim 48, Carleton teaches the apparatus of claim 30 wherein the service interleave factor determines how a plurality of service checks are interleaved (pp 0080-0882).

(10) Response to Argument

The examiner summarized the various points raised by the appellant and addresses replies individually.

As per Appellant arguments filed on 18 June 2006, the Appellant argues that Carleton does not teach:

logging into a host system by a satellite system to monitor an internal parameter (see Brief Page 10, lines 4-6, Argument 1)

In response to Argument 1, Carleton teaches that a client server [22] collects status and statistics about device operation in the client network. The client server 22 is connected to various client devices 26a-26c on a client network. The client server transmits this information to the monitoring and administration system 20. With respect to the claims, the client system is the host system, the client server is the satellite system. The internal parameters being monitored are the status of devices, paragraph 0084-0087. The invention claims logging into a host system by a satellite system to monitor an internal parameter. Carleton teaches logging into a satellite system to gain access to a host system and all the status and information about the system (paragraphs 0048 and 0059).

According to the specification on page 8, lines 19-22, a host is one or more computer systems connected together via an intranetwork. The hosts are located on business sites and the business sites can have more or less than three hosts, page 8, lines 21 – page 9, lines 1. On page

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9, lines 7-21 of the specification, it is disclosed that a host satellite system is coupled to an intranetwork. The host satellite system may reside locally at a business site to monitor hosts. Host satellite system may be connected to an intranetwork inside of its firewall. Host satellite system includes monitoring software that monitors performance characteristics and services of hosts (e.g., state changes, connection status, etc.). Internal parameters and monitoring of the invention are disclosed in the specification on page 14, lines 17-21 and page 15, lines 1-7. As disclosed, these internal parameters include load on the host, processor utilization, disk utilization, memory utilization, number of users connected to the host, number or process running on the host, recording of states over time, identification of state changes and notification of state changes.

With respect to the reference Carleton, the computers 26a-26c are devices connected on an internal network, see paragraph 0049, lines 19-22. These computers form a system which comprises the client network. The satellite system corresponds to the client server 22 of Carleton. The client server 22 hosts monitoring software which collects status and statistics about device operation, paragraph 0050, lines 1-5. The information collected is sent via network to a remote network monitoring system 20. It will be appreciated that a portion of the functions associated with the remote network monitoring system 20 may be performed within the client server 22 (paragraph 50, lines 32-35). The monitoring system logs into the client server 22 to access the client network (paragraph 00050, 0058). The systems are connected to the devices via the network (pp 0049, lines 17-19 and pp 0050, lines 1-3). Information is required about the users which are to be allowed to access to system information concerning the network being monitored (pp0058). Each prospective user is required to log into the system prior to gaining

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access to the network information (pp0058). Once the user logs on to the system, that user had access to all the regions and devices on the network that it is allowed to access (pp0060). See also Figure 4 and pp 0092.

The alarms generated for a device are about the device itself and all the port associated with the device, as taught in paragraph 0075 and paragraph 0084-0087. Specific device (26a-26c) information, such as device information and alarms are monitored by the system. The client network devices are directly monitored from monitoring device. The system allows for the device or specific ports on the device to be monitored. The device can be monitored for certain alarms such as the status of the device, paragraph 0087. These are internal parameters of the host system.

As discussed above, Carleton teaches logging into a remote system which accesses a system of devices to monitor the parameters of that system and the particular devices. Real time status and information about the device is communicated to the remote system. Hence, Carleton teaches logging into a host system by a satellite system to monitor an internal parameter.

Appellant argues that Carleton does fails to disclose queuing different types of data in different ones of multiple queues or prioritizing a transferring of queued data from multiple queues (see Brief page 13, lines 4-7, Argument 2).

In response to Argument 2, a queue as known in the art is a “waiting area” in which a sequence data is held before it is processed or presented. As disclosed by the specification on page 16, lines 9-10 a queuing client stores and queues collected data and periodically transmits

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the data. Also, on page 16, lines 11-13, multiple queues would each configure and store different types of data.

Paragraph 0075 of the reference Carleton teaches that the monitoring device receives information about Current Alarms in devices. In Carleton different alarms are coded differently to generate a variety of reports, each report relating to a specific alarm. Carleton teaches that one device is monitored for different business rules. The reference also teaches that a variety of reports are generated. See paragraph 0087. A number of additional reports exist within the system and custom reports may be created so that the administrator is supplied with the information required to properly administer the system. The custom reports allow the administrator to manage, transfer and manipulate data that comes in from different ports on the host into different lists.

The monitoring and administration system allows viewing of system information and provides variously formatted reports of status and history within the system. In Figure 21, different regions are highlighted to indicate alarm conditions within those regions. In Figure 22, devices are specified to indicated the cause of the current alarm.

Carleton also teaches that the alarm status for a device is divided into different fields corresponding types of alarms and notifications. In paragraph 0084 it is taught that different business rules being violated will be coded when presented to the user. Each coding can represent a different queue by which the alarm is processed.

A Current Alarm screen of Figure 24 provides information on all current alarms by device number which currently exist within the system. The entries on the screen are coded to

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indicate the business rule being violated by the device or severity of the condition, paragraph 0086.

Storing and generating different types of data based on different alarms teaches the queuing of the claimed invention.

Appellant argues that Carleton does not provide at least one of a suggestion of a probable cause of a predetermined event and a solution to the occurrence of the predetermined event (See Brief page 16, lines 4-7, Argument 3).

In response to Argument 3, Carleton teaches that the cause of the alarm is indicated in the report generated by the monitoring system (pp0084, line 12-16). The monitoring and administration system allows viewing of system information and provides variously formatted reports of status and history within the system. In Figure 22, devices are specified to indicate the cause of the current alarm. A Current Alarm screen of Figure 24 provides information on all current alarms by device number which currently exist within the system. The entries on the screen are coded to indicate the business rule being violated by the device or severity of the condition, paragraph 0086.

Business rules contain rules against which the devices defined for the network are compared to determine violations, paragraph 0078. These business rules define the causes of a particular alarm. Carleton specifically teaches a business rule violation by a printer device in paragraphs 0084-0087. Common causes or alarms for a printer include power on/off, out of paper and out of toner. These alarms can correspond to the business rules of Carleton.

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As discussed above, Carleton teaches that when business rules are violated, alarms and notifications are generated. Conclusively, these business rules teach causes for the alarm on a device.

Appellant argues that Carleton does not disclose a means for logging into and monitoring a host system for an internal parameter (See Brief page 17, lines 18-20, Argument 4).

In response to Argument 4, Carleton teaches that a client server [22] collects status and statistics about device operation in the client network. The client server 22 is connected to various client devices 26a-26c on a client network. The client server transmits this information to the monitoring and administration system 20. With respect to the claims, the client system is the host system, the client server is the satellite system. The internal parameters being monitored are the status of devices, paragraph 0084-0087. The invention claims logging into a host system by a satellite system to monitor an internal parameter. Carleton teaches logging into a satellite system to gain access to a host system and all the status and information about the system (paragraphs 0048 and 0059).

According to the specification on page 8, lines 19-22, a host is one or more computer systems connected together via an intranetwork. The hosts are located on business sites and the business sites can have more or less than three hosts, page 8, lines 21 – page 9, lines 1. On page 9, lines 7-21 of the specification, it is disclosed that a host satellite system is coupled to an intranetwork. The host satellite system may reside locally at a business site to monitor hosts. Host satellite system may be connected to an intranetwork inside of its firewall. Host satellite system includes monitoring software that monitors performance characteristics and services of

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hosts (e.g., state changes, connection status, etc.). Internal parameters and monitoring of the invention are disclosed in the specification on page 14, lines 17-21 and page 15, lines 1-7. As disclosed, these internal parameters include load on the host, processor utilization, disk utilization, memory utilization, number of users connected to the host, number or process running on the host, recording of states over time, identification of state changes and notification of state changes.

With respect to the reference Carleton, the computers 26a-26c are devices connected on an internal network, see paragraph 0049, lines 19-22. These computers form a system which comprises the client network. The satellite system corresponds to the client server 22 of Carleton. The client server 22 hosts monitoring software which collects status and statistics about device operation, paragraph 0050, lines 1-5. The information collected is sent via network to a remote network monitoring system 20. It will be appreciated that a portion of the functions associated with the remote network monitoring system 20 may be performed within the client server 22 (paragraph 50, lines 32-35). The monitoring system logs into the client server 22 to access the client network (paragraph 00050, 0058). The systems are connected to the devices via the network (pp 0049, lines 17-19 and pp 0050, lines 1-3). Information is required about the users which are to be allowed to access to system information concerning the network being monitored (pp0058). Each prospective user is required to log into the system prior to gaining access to the network information (pp0058). Once the user logs on to the system, that user had access to all the regions and devices on the network that it is allowed to access (pp0060). See also Figure 4 and pp 0092.

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The alarms generated for a device are about the device itself and all the port associated with the device, as taught in paragraph 0075 and paragraph 0084-0087. Specific device (26a-26c) information, such as device information and alarms are monitored by the system. The client network devices are directly monitored from monitoring device. The system allows for the device or specific ports on the device to be monitored. The device can be monitored for certain alarms such as the status of the device, paragraph 0087. These are internal parameters of the host system.

As discussed above, Carleton teaches logging into a remote system which accesses a system of devices to monitor the parameters of that system and the particular devices. Real time status and information about the device is communicated to the remote system. Hence, Carleton teaches logging into a host system by a satellite system to monitor an internal parameter.

Appellant argues that Carleton fails to disclose configuring a service interleave factor of a host system (See Brief page 20, lines 17-20, Argument 5).

In response to Argument 5, interleaving, as known in the art and understood by the examiner, is arranging or collecting data in alternating portions. Interleaving as defined in the specification is disclosed on page 18 as a more even distribution of service checks, reduced load on hosts and faster overall detection of host problems. Service interleave factor determines how checks are interleaved. On Page 19, it is disclosed that intercheck delay determines how service checks are initially distributed in an event queue. The use of delays between service checks may help reduce, or even eliminate, CPU load spikes on a host. The specification also discloses on page 19, lines 4-6 that other types of parameters may be configured, for example, timing

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parameters. The timing parameters may include time between failed checks, check period and scheduling passes. The specification in lines 6-11 defines these parameters.

In Carleton, checks are performed on devices based on certain business rules. These rules or parameters specify when a device or port is polled for information. Some of these checks are done at only specific times. See paragraphs 0072, 0073. Also taught by Carleton in paragraph 0072, page 5, lines 1-5, is that different timing rules are set to poll a device. These rules include Polling Period, Retries, Timeout and Backoff. These timing rules allow the system some downtime and to defer issuance of certain alerts, paragraph 0072. Downtime, as known by the art, is time when the system is not overloaded.

Carleton teaches configuring business rules to adhere to certain teach timing conditions. These conditions allow for a system or device to have some downtime. Accordingly, Carleton teaches configuring system interleave factors.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

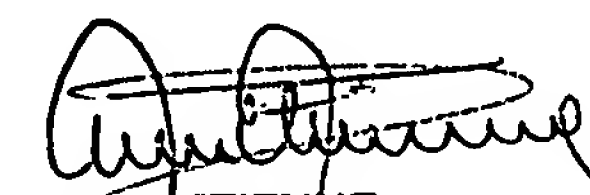
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